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ABSTRACT

The Northwest Ordinance of 1787 is a fundamental document in the development of the United States. It is outranked in importance only by the Declaration of Independence and the Constitution. The immediate purpose of the Northwest Ordinance was to provide government for the largely unsettled lands north and west of the Ohio River. In promising gradual and orderly development of representative government, and guaranteeing eventual statehood on an equal basis, the framers of the Ordinance tied the western territories to the nation with firm legal bonds. The Ordinance asserted the supremacy of the national government in a manner that anticipated the system of federalism of the Constitution. The Northwest Ordinance includes core civic values and principles in the American heritage. It also raises issues in American history, pertaining to slavery, states' rights, western expansion, and individual liberties. The Northwest Ordinance of 1787 allows insight into fundamental aspects of the American civic heritage. Thus, it is among the most important legacies Americans have and is worthy of special recognition as part of the Bicentennial celebrations of 1987. (JP)

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THE NORTHWEST ORDINANCE AND CONSTITUTIONAL DEVELOPMENT IN INDIANA

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The Northwest Ordinance

and Constitutional Development in Indiana

The immediate origins were ominous: it was passed on Friday, the 13th of July, 1787, by a legislative body soon to become extinct. But in approving the Northwest Ordinance the Articles of Confederation Congress bequeathed to the new nation a document of fundamental and enduring significance, a document that came to rank next only to the Declaration of Independence and the constitution of 1787 as testimony to the achievements of the founding generation.

The immediate purpose of the Northwest Ordinance was to provide for government in the largely unsettled lands north and west of the Ohio River. But in meeting that objective the framers of the Ordinance found themselves entangled in the most difficult political questions facing that first and succeeding generations of American citizens. In the Northwest Ordinance Americans confronted the challenges of representative government, of the westward movement, of federalism, of sectionalism and slavery, of individual rights and freedoms, and of democracy. Because it touched the cords of such basic issues in American history, the Northwest Ordinance was not only a fundamental document in the nation's development but also a controversial document. For western settlers especially its meaning and operation wrought tension and discord even as it bound them

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firmly to the new nation.

THE NORTHWEST ORDINANCE

While still at war with the British the American leaders debated how the lands west of the Appalachian Mountains would be incorporated into their new nation. It was, some thought, desirable to create and maintain this vast territory as a perpetual colonial dependency. At the other extreme of options was immediate statehood. The American solution was a compromise between those two options, a compromise embodied in the Ordinance of 1787. The revolutionary generation rejected perpetual colonial status for the western territory in part because they had experienced that unhappy condition themselves. They knew also that if these new lands were soon to attract large numbers of settlers they had to offer something other than a return to the dependent colonial status of the British Empire. Recent experience told all Americans the fate of such empires.

While not wishing to create a permanent empire, many political leaders believed that immediate self-government and statehood were foolhardy. The western lands were sparsely settled and unable economically or politically to support state governments that would be the equal of Pennsylvania or even Rhode Island. Indeed, some of the generation of the 1780s argued that the first settlers onto a new frontier were themselves nearly as "barbarous" as the Indian inhabitants and could not be trusted to govern themselves. A period of dependency would allow not only for simple population growth but also for development of a more mature and responsible population, one composed of hardy yeomen

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farmers capable of self-government. <1>

The compromise approach between perpetual colonial dependency and immediate statehood rested on a developmental model central to the hopes of this generation of Americans. They assumed that theirs was a novel experiment in government, one that would work only if it allowed for expansion and growth. Population growth and the urge to move west would lead to rapid settlement of the new lands. If the new government was to succeed, it must prepare for and encourage this expansion, not in a haphazard manner but in a way that allowed for orderly and responsible settlement and encouraged sure transfer of fundamental American institutions to the new land. The Ordinance of 1787 was directed to these objectives.

Rather than granting immediate statehood and representative government to the territory north and west of the Ohio River the Ordinance provided for a developmental progression through three stages of government. The first stage provided for neither representative nor democratic government. Instead, a territorial governor, a secretary, and three judges would constitute the government. They were not elected by the people they served, but rather were appointed by the national government. And they were supreme within their sphere, governing without the influence or participation of the people of the territory. <2>

Movement from this first to a second stage of government was possible when the population of the territory grew to 5,000 "free male inhabitants of full age." Then the free adult males who owned fifty acres of land could vote to elect representatives to the lower house of a territorial legislature, though they could

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choose as representatives only from those of their fellow settlers who owned at least 200 acres of land. (These property qualifications reflected the conservative tendencies of the Ordinance's framers and were generally more restrictive than those that prevailed in the thirteen states.) The lower legislative body, the territorial house of representatives, in turn could nominate ten men, provided they each owned at least 500 acres of land, for consideration as members of the upper house of the legislature. The national government would then appoint the five actual members of the legislative council from the list of ten nominees. The house and the legislative council together elected a delegate to Congress to represent the territory's interests, though he could not vote in the national body. The territorial legislature could pass laws, provided they did not contradict the provisions of the Ordinance and provided they had the approval of the governor, who had an absolute veto power. The governor also had the power to dissolve the legislature at his pleasure.

Passage to the third and final stage of government came when the territory's free inhabitants numbered at least 60,000. Then the territory could enter the Union "on an equal footing with the orignial States, in all respects whatever." And the people would "be at liberty to form a permanent constitution and State government." The Ordinance stipulated also that the whole territory would eventually consist of between three and five states.

These three stages marked the evolution from dependent to

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representative government. The framers of the Ordinance foresaw a gradual, upward progression as the westward movement proceeded and assumed an orderly and systematic unfolding of their developmental model of settlement and government. The national government would follow the settlers west and provide government for them until the process of development allowed for self-government. Above all, the Ordinance held out to settlers the absolute commitment of statehood. There were no tests or obstacles other than the simple one of population size. The westward moving pioneer would leave his home state but would eventually become a citizen of a new state, with all the rights enjoyed in the original thirteen.

GOVERNMENT IN THE NORTHWEST TERRITORY, 1788-1800

The Ordinance of 1787 represented widely shared notions about the development and nature of government, western lands, the new nation, and the human character. It became controversial nonetheless, even for some who subscribed to its basic assumptions. Almost immediately there was discord and conflict over the meaning of the document.

The initial tension centered around the character and the legitimate power of the first governor of the Northwest Territory, Arthur St. Clair. A retired revolutionary war officer afflicted with gout, St. Clair arrived at the territorial capital in Marietta in July, 1788, and soon developed a reputation for an arbitrary and condescending attitude toward the people he governed. Indeed, some settlers began to compare the haughty St. Clair to royal governors of the colonial period and even to the

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hated King George III. Rather than free Americans they had become subjects of a monarch, they asserted, their condition even less free than that before the Revolution.

As pioneers moved over the mountains and down the rivers to the West, population growth permitted stepping to the second stage of territorial government in 1798. But bitterness persisted, particularly over St. Clair's veto of several pieces of legislation passed by the new territorial legislature. Opponents of St. Clair led the movement toward statehood for the eastern edge of the territory. With population growth on their side, their principal victory came in 1800, when Congress approved division of the territory into two. The newly created Indiana Territory encompassed the western two-thirds of the original Northwest Territory, extending west to the Mississippi River and north to the Canadian boundary. The southeastern portion became in 1803 the new state of Ohio, entering the Union on an equal footing as promised in the 1787 Ordinance. <3>

GOVERNMENT IN THE INDIANA TERRITORY, 1800-1816

The Indiana Territory created in 1800 faced most of the political problems that had plagued the Northwest Territory under Governor St. Clair. But movement through the developmental stages was more rapid, and claims for self-government received more favorable responses. <4>

The governor of the Indiana Territory from 1800 to 1812 was William Henry Harrison. A Virginia gentleman born in 1773, young Harrison had served with General Anthony Wayne at the Battle of Fallen Timbers in 1794. In 1799 he was elected as the first

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delegate to represent the Northwest Territory in Congress. Though not able to vote Harrison effectively argued for western interests in Washington, most notably in passage of the Land Act of 1800, which made possible easier purchase of western lands. In May, 1800, President John Adams appointed the twenty-seven-year old Harrison governor of the newly created Indiana Territory. In the next dozen years he faced many challenges, especially as he conducted an aggressive campaign of treaty making, land purchase, and eventually war with the Indians of the territory, culminating in the Battle of Tippecanoe in 1811 and the War of 1812 that followed. But Governor Harrison soon discovered also that he had to face opposition from among his fellow settlers.

As stipulated under the Ordinance of 1787, the government of Indiana Territory in 1800 consisted of the governor, a secretary, and three judges. The white citizens of the territory, numbering 5,641 pioneers in 1800, had no voice in this government, a condition they soon came to protest. Louder and louder were their voices to move quickly to the second stage of government as stipulated under the Ordinance. Governor Harrison resisted for a time, but in 1804 he approved a vote on the question. The majority vote approved movement to the second stage and, following another election, led to the first session of the Indiana General Assembly, held at Vincennes in summer, 1805.

Indiana now had a semi-representative legislative body, but it could be prorogued and dissolved at the wish of the governor, and its will could be overridden by his absolute veto power. The territory had a representative in Congress, but he was appointed

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by the legislature rather than elected by the people, and he could not vote in Washington. These restrictions became increasingly objectionable to a growing number of settlers and caused a widening divergence between Governor Harrison and the territorial legislature. As colonials had in the years before 1776, Indianans appealed to the national government for fuller representation and justice. As one citizens' petition to Congress argued, we wish "to preserve our rights unsullied as they were when handed to us by the patriots of Seventy Six,..." <5> The Indiana House in 1808 petitioned Congress for the right to elect their delegate to Washington rather than have him appointed by the legislature. And in that same petition the territory's legislators urged that Congress repeal "that part of the ordinance which vests in the Governor of this Territory an absolute negative on all acts and also that part which confers on him the power of Progueing [sic] and dissolving the General Assembly when in his opinion it shall be expedient..." <6>

Congress refused to diminsh the power of the governor, but it did respond to the first request in 1809 by granting the voters of the territory the right to elect their delegate to Washington and to elect also the five members of the legislative council. The resulting election, held that year, produced not only an exercise in more representative government but also brought to the forefront the leading political opponent of Governor Harrison. Jonathan Jennings was a twenty-five-year-old lawyer opposed to Harrison's tight hand on Indiana politics and government. Not only did Jennings beat Harrison's candidate in

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the congressional delegate election of 1809, he also began to gather about him a group of politicians and a settler following determined to remove Harrison and his friends from office. Their motives doubtless mixed between a wish for the benefits of office for themselves and their genuine commitment to more democratic government.

Jennings and his political associates charged that Harrison was the leader of an aristocratic faction, a faction determined to keep the people of Indiana subservient just as the British crown had done to its colonial subjects. Such charges were doubtless exaggerated for political effect, but they produced results that soon democratized government. Fundamental to the strength of the Harrison faction, opponents charged, was the property qualificiation for voting, originally set in the Ordinance of 1787 at 50 acres. As early as 1802 settlers had petitioned Congress for removal of this obstacle to voting. In 1810 the territorial legislature formally petitioned Washington, and Congress responded by granting the suffrage to all free white adult taxpaying males resident in the territory one year, whether or not they owned property.

Still there remained the power of the governor. Unlike St. Clair or some earlier British governors Harrison showed moderate flexiblity and responsiveness to popular wishes, but he seldom moved as quickly and completely as an increasing number desired. His appointive position and the large power granted him by the 1787 Ordinance aroused growing discontent. When, for example, the legislature voted to move the territorial capital from Vincennes to Madison, Harrison vetoed the bill. The only way to

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diminish that large executive power was to progress to the third stage promised by the Ordinance of 1787.

The Indiana House petitioned Congress on December 11, 1811, to grant statehood. The legislature's memorial questioned the wisdom of the framers of the Northwest Ordinance in "giving to the Territorial or coloneal [sic] governments the singular Monarchal shape they now exhibit." In particular, the citizens of Indiana "think it hard to be in a degree disfranchised as a people when they have done no crime, but by their migration thither confered a benefit to the United States." To remedy these unhappy conditions, the legislature solomenly appealed to Congress that Indiana "be admitted as an independent [state] into the Union upon the same footing as one of the original states." <7>

The distractions of the War of 1812 pushed the issue of statehood aside for a time. The defeat of the British and, more important, the removal of the Indian threat paved the way for an invigorated movement for statehood. In addition, the flow of new settlers into the territory now became a flood, even before peace with Britian was formally declared. Here the developmental model and simple promise of the Northwest Ordinance came to full flower. The Indiana legislature in 1814 resolved to take a count of the territory's population. This was done in 1815 and showed a total number of 63,897, thus exceeding the minimium number requisite for statehood. The legislature thus petitioned Congress to allow an election of delegates to prepare a constitution.

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The movement for statehood in 1815-1816 did arouse opposition. The largest objection came from those who argued that the territory was not financially ready for statehood. In the previous dozen years about two thirds of the annual territorial expenditures were paid from federal appropriations. This federal aid would end with statehood, and, opponents argued, Indiana taxpayers would not be able to make up the difference. Indeed, in a lament genetic to Hoosiers from this first generation to the present they asserted that taxes already were too high. Territorial Governor Thomas Posey, who had been appointed in 1813 to replace Governor Harrison (who had resigned in 1812 to fight Indians and the British), expressed these concerns in a letter to Secretary of State James Monroe in early 1816. The people were "very restlessss to go into State Government," Posey admitted, but at least two thirds of them were too poor to pay anything to support this new government. Moreover, according to Posey, there was "a great scarcety [sic] of talents, or men of such information as are necessary to fill the respective Stations, & Offices of government." Gloomily the governor concluded, "We have numbers sufficient, & that is all we can boast of." <8>

But under the promise of the Ordinance of 1787 numbers were all that was necessary. With 60,000 Hoosiers of whatever wealth or talent there was no containing the popular wish for statehood. The lockstep, developmental promise of the Ordinance of 1787 worked its effect. Congress had little choice but to grant the petition for statehood, stipulating in April, 1816, that Hoosiers could elect delegates to a constitutional convention.

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STATEHOOD

The forty-three men who gathered in the heat and humidity of Corydon in the summer of 1816 to frame a constitution had constantly before them memories of government under the Northwest Ordinance. The majority faction in the convention, led by Jonathan Jennings, was determined to create the most representative and democratic government possible. Not all shared this view. The Jennings people were, a critic charged, "empty bablers, democratic to madness." <9> The minority faction, many of whom had allied themselves with Harrison in territorial days, were more moderate in their enthusiasm. The constitution that resulted from their debates showed the majority's successful determination to keep power dispersed and close to the people rather than concentrated and distant as it had been in territorial days.

Indicative of the majority sentiments were the provisions for the state executive. There would be no governor of Harrison's and certainly not St. Clair's power in the new state. The constitution provided the governor a veto power, but any veto could be overriden by a simple majority vote in each house of the legislature. Moreover, there would be no repetition of Harrison's twelve years of continuous rule: the state governor could have only two three-year terms in any nine-year period. The other side of the coin of a weaker executive was a stronger legislature. The General Assembly would be the dominant branch of government. And it would be close to the people, with the senators elected every three years and the representatives every

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year. Most important of all, the constitution granted suffrage to every white male citizen twenty-one years of age who had resided in the state one year. There was no property or tax-paying qualification, a provision that made Indiana's suffrage more liberal than that of many states. <10>

Statehood, formally approved by President James Madison on December 11, 1816, brought a government that was more representative and closer to the people. In addition, fulfillment of the promise made in 1787 of equality with the original states meant that Indiana also now had a firm and full voice in the national government. The federal constitution's guarantee of two senators to each state combined with a growing Indiana population and therefore a growing number of representatives to give Hoosiers a meaningful influence in Washington. That participation was doubtless one of the factors that tied Indianans firmly to the national government, helping boost their claim then and everafter that they were among the most American of Americans. Any resentment of colonial status in the years before 1816 was washed away in the constitution of 1816 and the new sense of nationalism.

THE ARTICLES OF COMPACT AND THE QUESTION OF SLAVERY

In providing a means for orderly political development the Northwest Ordinance did not allow for immediate representative government. The Ordinance did, however, promise new settlers certain fundamental rights to which they were entitled from the very beginning. These rights were contained in six "articles of compact between the original States and the people and States in

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the said territory...." They constituted an advanced statement of American freedoms and rights, many of which the new government would soon include in the Bill of Rights.

The first article of compact promised religious freedom; the second guaranteed due process of law, including trial by jury; the third encouraged establishment of schools and justice toward Indians in the territory; the fourth reiterated federal sovereignty over the territory; the fifth promised eventual statehood "on an equal footing with the original States..."; and the sixth, final, and most controversial article of compact stipulated that "There shall be neither slavery nor involuntary servitude in the said territory...." <11>

The articles of compact were intended to and doubtless did reassure westward moving pioneers that they would not risk surrender of these fundamental rights. And they served also as guides for territorial officials and state constitution makers. Indiana's constitution of 1816 reiterated and extended the fundamental rights promised in the 1787 Ordinance, including a very strongly stated commitment to education and prohibition of slavery.

It was the question of slavery that caused most difficulty. Article VI of the Northwest Ordinance was one of the earliest shots in the war over slavery that would end only at Appomattox Courthouse. Just why the southern majority in the Confederation Congress agreed to the article is not known, but agree they did. <12> It was an agreement many early Hoosiers regretted, for the prohibition of slavery in Indiana Territory soon became most

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vexatious to them.

Soon after the territory was created there began a movement to repeal Article VI of the Ordinance. Responding to appeals from Indiana residents and professing to a belief that a majority of the territory's people wanted slavery, Governor Harrison called a special convention, which in December, 1802, resolved in favor of a ten-year suspension of Article VI. The convention asserted that because slaveholding emigrants will not settle in Indiana the territory's promised development would be retarded and statehood delayed. When Congress refused to respond to this and other appeals, Indiana acted on its own.

The first session of the territorial legislature, meeting in 1805, passed a proslavery act that, in the lament of Vincennes resident John Badollet, "trampled on the Ordinance of Congress" in an "outrageous manner." Indeed, Badollet and others charged, the purpose of Harrison and his associates in moving to "the second grade of Government was the introduction of Slaves." <13> The law they passed in 1805 permitted a slaveowner settling in Indiana to make a contract with his slaves that specified a term of service. The indenture could be made for any number of years. Most indentures in Indiana were between twenty and forty years, some for as long as ninety. These contracts had the force of law and allowed slavery to exist under the subterfuge of indenture. <14>

And exist it did, although the exact number of slaves in Indiana is impossible to determine. The census of 1810 counted 237 slaves and 393 free blacks, but it is most likely that many of those listed as free were in fact indentured servants whose

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lives were no different from those listed as slaves. Among Indiana's slaveowners were Governor Harrison and Governor Posey as well as many other prominent citizens.

Following passage of the 1805 indenture law the Indiana legislature continued to petition Congress to suspend Article VI so that slavery might exist openly and fully. A resolution in 1806 asserted again that unless slavery were allowed southerners would bypass Indiana and the territory would "for many years remain in its present situation, its citizens deprived of the greater part of their political rights...." Slavery, in this view, would be a boon to democracy--at least for white Hoosiers. In a petition to Congress in 1807 the teritorial legislature even suggested that legalizing slavery would profit slaves as well, arguing that in Indiana "slaves, possessed in small numbers by farmers, are better fed and better clothed than when they are crowded together in quarters by hundreds." <15>

The arguments favoring slavery did not go unanswered. Several antislavery conventions met and passed resolutions condemning slavery and the movement to encourage it. From Clark County in 1807 came a petition asserting that not only was slavery "repugnant to the inestimable principles of a republican Government," but that many settlers who had come and will come had "emigrated to this Territory to get free from a government which does tolerate slavery." <16> These and other antislavery arguments grew in tone and weight. And finally at the 1810 session of the legislature a majority voted to repeal the 1805 act that allowed indenture of blacks.

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The debate over slavery in Indiana Territory reflected and developed out of a complex variety of factors. It reflected most brightly the several streams of population migrating to the territory. Most notably, Indiana did not attract nearly as large a proportion of New Englanders, who generally and increasingly opposed slavery, as did other parts of the Northwest. Ohio in particular had no quarrel over slavery comparable to Indiana's because of the strong antislavery position of the very large New England population there. Indiana's population was primarily from the South, moving in a stream that flowed from Virginia and the Carolinas across the mountains and into Tennessee and Kentucky and then north across the Ohio River. Indicative of that southern characteristic was the fact that all but nine of the forty-three members of the 1816 constitutional convention had come to Indiana from south of the Mason-Dixon line. And as late as 1850 44 percent of Indiana's non-Hoosier-born population had been born in the South. <17>

The support for slavery was thus partly a reflection of the slaveholding origins of this southern population. But not all southerners who came to Indiana owned slaves or accepted the institution as desirable or even as a necessary evil. Indeed, as the Clark County petition quoted above indicates, many southerners crossed the Ohio to escape slavery. Mostly small farmers, they did not wish to compete with slave labor, did not wish to work and live near blacks, and, in some cases, as with the large numbers of North Carolina Quakers who migrated to Indiana, firmly opposed on moral and humanitarian grounds the South's peculiar institution. It is likely that this southern

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population that was opposed to slavery grew in proportional size as time passed in Indiana Territory. And they were agumented by a trickle of New Englanders and a larger number of migrants from Ohio and the Mid-Atlantic states. The result by 1810 was a population whose legislative representatives voted to repeal the indenture law passed five years earlier and a population whose delegates to the constitutional convention of 1816 likewise prohibited slavery even though the large majority were themselves from the South.

There is an additional ingredient in the opposition to slavery. Supporters of slavery tended to be closely allied to Governor Harrison. And as opposition to Harrison grew, it became politically expedient to castigate the Harrison faction in territorial politics as a slaveholding aristocracy bent on denying representative government and democracy. Jennings and his supporters did just that. Indeed, the political division took on a geographic tone. Harrison's supporters were most numerous and powerful in western Indiana, especially around the territorial capital at Vincennes. The Jennings faction was strongest in eastern and southeastern Indiana, especially in the Whitewater Valley, the area that by 1810 was growing most rapidly and was most strongly opposed to slavery. The question of slavery thus became entangled with political factions and ambitions and with the struggle for more representative government. It is too much to assert, as one scholar did a hundred years ago, that in redeeming itself from slavery Indiana prepared the way for democratic self-rule <18>, but there was a connection,

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politically and ideologically, as there would be whenever the issues of slavery and freedom were argued in the years before 1861.

The struggle over slavery in Indiana continued into the constitutional convention of 1816. There the dominance of the Jennings group, with their commitment to abolishing slavery, produced a constitution that prohibited the institution. Indeed, the convention attempted even to bind future generations to an antislavery stance. Article VIII stated that "as the holding any part of the human Creation in slavery, or involuntary servitude, can only orginate in usurpation and tyranny, no alteration of this constitution shall ever take place so as to introduce slavery or involuntary servitude in this State..." <19>

The constitution did leave some uncertainty, however, about the status of blacks held in slavery and under indentures made before 1816. In western Indiana especially some slaveowners continued to hold their human property into the 1820s. But they were the last remnants of a cause that died in Indiana long before 1862.

It must be noted that majority opposition to slavery did not mean majority commitment to equality for blacks. On the contrary, slaves and free blacks in Indiana were denied full rights as Indiana and American citizens. Territorial legislation and the state constitution granted suffrage only to white males. Blacks also were excluded by the constitution from serving in the militia. The representative government created in 1816 was for white men only. Blacks Hoosiers would not be able legally to vote until the election of 1870. Women had to wait more than a

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hundred years after statehood.

THE NORTHWEST ORDINANCE AND AMERICAN HISTORY

Encased behind plastic in shopping malls and school hallways across America are fundamental documents in the nation's history. The Northwest Ordinance is always there, and deserves to be. The Ordinance is a fundamental document because it represents an immediate and successful answer to the question of what to do about government in the West. In many respects it was, as one scholar has writtten, "the most magnanimous colonial policy the world had ever seen." <20> Most certainly it was a remarkable improvement over the colonial policy of the British Empire, largely because of the lessons Americans chose to learn from their experience in that empire. In promising gradual and orderly development of representative government and guaranteeing eventual statehood on an equal basis, the framers of the Ordinance tied the growing West to the nation, not with bonds of imperial force but with reciprocal, heartfelt nationalism.

The Ordinance of 1787 is a fundamental document not only in its successful solution to the problem of government for the West; it speaks also to other broad and basic issues in American history. To the issue of federalism, for example, the Ordinance indicates the sovereignty of the national government, a position that would be more fully stated in the constitution of 1787. The states that developed under the Ordinance were not self-created entities but creatures of the central government, entering the Union in an almost mechanical way. Implicit in the Ordinance,

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therefore, was a diminution of statehood, a diminution necessary for development of the strong central government. <21> And the experience of government under the Ordinance shows also the vitality of politics and government beyond the halls and offices of Washington. Indiana chose for a time to flout the national government in allowing slavery to exist in the territory. It would not be the last time Hoosiers would thumb their noses at the federal government. From 1800 to the present there has been a tension between state and national governments that has sometimes worked ill but often has kept either entity from straying too far in directions that threaten fundamental rights and freedoms. <22>

The Northwest Ordinance is a fundamental document also because it reflects the importance of the westward movement in American history. While it contains elements of eastern conservative fear, as in its property qualifications, it indicates more forcefully the optimism and hope of this founding generation that America would grow and expand. The nation did grow and it did expand westward, rapidly and forcefully. There were costs, including those to the Native Americans in the way of this expansion, but the westward movement was by nineteenth and twentieth century Americans usually judged a success of unparalleled proportions, an essential part of defining the very notion of being an American. <23>

The Ordinance speaks to issues of sectionalism as well as nationalism. Its conservative elements reflect fears that the West might grow in directions unfavorable to the eastern states. Too rapid settlement might depopulate the east and cause economic

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competition. More important, the Ordinance struck sectional chords in prohibiting slavery in the territory, raising an issue that would endure until finally addressed in civil war.

And the Ordinance is an enduring document because it presents, even before the Bill of Rights, the notion that there are certain fundamental rights to which all Americans are entitled. Even in emigrating beyond the protection of the thirteen states settlers will be protected by the assumption of inalienable rights, specifically stated in the Ordinance and restated and expanded in later promises and compacts made between federal and state governments and the people.

And finally the Ordinance is a major document because it is a controversial one. Its immediate context was controversial, vividly shown in opposition to Governors St. Clair and Harrison. And the larger contexts and meanings engendered bitter controversy among Americans, over slavery and sectionalism, representative government, federalism and states' rights, western expansion, and individual freedom. For two centuries Americans have debated these issues.

The Ordinance of 1787 thus allows insight into some of the most fundamental and enduring issues in American history. It can not surpass in significance the constitution of that same year, but celebrations of the achievements of 1787 must certainly not neglect the lesser document. It is among the most important legacies Americans have.

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NOTES

1. Robert F. Berkhofer, Jr., "The Northwest Ordinance and the Principle of Territorial Evolution," John Porter Bloom, ed., The American Territorial System (Athens, Ohio, 1973), 45-55; Peter S. Onuf, "From Constitution to Higher Law: The Reinterpretation of the Northwest Ordinance," Ohio History, 94 (Winter-Spring, 1985), 5-33.

2. For the text of the Ordinance and other related national documents see Samuel Eliot Morison, ed., Sources and Documents Illustrating the American Revolution, 1764-1788, and the Formation of the Federal Constitution (New York, 1965). The Ordinance and related Indiana documents are most accessible in Hubert H. Hawkins, Indiana's Road to Statehood: A Documentary Record (Indianapolis, 1969). The Ordinance of 1787 built on the foundation of the Ordinance of 1784, prepared by Thomas Jefferson.

3. John D. Barnhart, Valley of Democracy: The Frontier versus the Plantation in the Ohio Valley, 1775-1818 (Bloomington, Ind., 1953), 138-160. As stipulated in the Ordinance of 1787, five new territories and states were eventually created out of the original Northwest Territory. In addition to Ohio and Indiana, these were: Michigan Territory (1805), which became a state in 1837; Illinois Territory (1809), which became a state in 1818; and Wisconsin Territory (1836), which became a state in 1848. See R. Carlyle Buley, The Old Northwest: Pioneer Period,

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1815-1840 (2 vols., Indianapolis, 1950), I, 58-93, II, 43-159.

4. The best account of Indiana's territorial history is John D. Barnhart and Dorothy L. Riker, Indiana to 1816: The Colonial Period (Indianapolis, 1971), 314-411. For a more general history of these years see James H. Madison, The Indiana Way: A State History (Bloomington, Ind., 1986), 36-54.

5. Clarence Edwin Carter, ed., The Territorial Papers of the United States. Volume VIII: The Territory of Indiana (Washington, D. C., 1939), 142.

6. Gayle Thornbrough and Dorothy Riker, eds., Journals of the General Assembly of Indiana Territory, 1805-1815 (Indianapolis, 1950), 213-14.

7. Carter, ed., Territorial Papers, VIII, 151.

8. Ibid., 380. See also Donald F. Carmony, "Fiscal Objection to Statehood in Indiana," Indiana Magazine of History, XLII (December, 1946), 311-321.

9. Gayle Thornbrough, ed., The Correspondence of John Badollet and Albert Gallatin, 1804-1836 (Indianapolis, 1963), 261.

10. The most useful sources for the Indiana Constitution are Charles Kettleborough, ed., Constitution Making in Indiana: A Source Book of Constitutional Documents with Historical Introduction and Critical Notes (Indianapolis, 1916; reprint edition, 1971), and Barnhart and Riker, Indiana to 1816, 439-463.

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11. Morison, ed., Sources and Documents Illustrating the American Revolution, 230-33.

12. J. David Griffin, "Historians and the Sixth Article of The Ordinance of 1787," Ohio History, 78 (Autumn, 1969), 252-60.

13. Thornbrough, ed., The Correspondence of John Badollet and Albert Gallatin, 97, 102.

14. Emma Lou Thornbrough, The Negro in Indiana: A Study in a Minority (Indianapolis, 1957), 1-30.

15. Thornbrough and Riker, eds., Journals of the General Assembly, 123, 156.

16. Jacob Piatt Dunn, ed., Slavery Petitions and Papers (Indiana Historical Society Publications, Vol. II, No. 12, 1894), 78.

17. Gregory S. Rose, "Hoosier Origins: The Nativity of Indiana's United States-Born Population in 1850," Indiana Magazine of History, LXXXI (September, 1985), 201-232.

18. Jacob P. Dunn, Jr., Indiana: A Redemption from Slavery (Boston, 1905 [originally published in 1888]).

19. Kettleborough, ed., Constitution Making in Indiana, 112.

20. Philip R. Shriver, "America's Other Bicentennial," Old Northwest, 9 (Fall, 1983), 220.

21. Peter S. Onuf, The Origins of the Federal Republic:

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Jurisdictional Controversies in the United States, 1775-1787 (Philadelphia, 1983), 21-46.

22. James H. Madison, "The American Constitution and the Old Federalism: Views from the Hoosier State" (Bicentennial of the United States Constitution Lecture Series, Poynter Center, Indiana University, Bloomington, 1985). Indiana's political history after statehood may be traced in Madison, The Indiana Way, 121-42, 193-229, 288-317. For the development of bureaucracy, see Richard A. Brisbin, Jr., "Before Bureaucracy: State Courts and the Administration of Public Services in the Northwest, 1787-1830," Old Northwest, 10 (Summer, 1984), 141-74.

23. Malcolm J. Rohrbough, The Trans-Appalachian Frontier: People, Societies, and Institutions, 1775-1850 (New York, 1978).

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